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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,115

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Renaud Dore

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EXAMINER

MILLER, BRANDON J

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/519,115	Applicant(s) DORE ET AL.	
	Examiner BRANDON J. MILLER	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Continued Examination Under 37 CFR 1.114

I. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 26, 2010 has been entered and claims 1-2 and 4-5 are pending in the application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

II. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the existing network" in line 8. There is insufficient antecedent basis for this limitation in the claim.

The following art rejection is based on the best possible interpretation of the claim language in light of the above rejection under 35 U.S.C. 112, second paragraph.

Art Unit: 2617

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

III. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gandolfo (US 7,184,767 B2) in view of Ozugur (US 7,289,463 B2).

Regarding claim 1 Gandolfo teaches a method of creation of a new communication network by a wireless terminal (controller-capable device), including, for the wireless terminal,

Art Unit: 2617

initiating a procedure for creating a new network, coexisting with an existing network, including a declaration of the wireless terminal as the access point of the new network, where the operating parameters of the new network are such that communications on the new network do not interfere with the existing network, the new network using a frequency different from the frequency used by the existing network (see col. 9, lines 23-33, When the controller-enabled device creates a new network it then becomes a controller with functionality for controlling the network and having other devices associated to it (see col. 9, lines 13-19 and col. 12, lines 56-60). This reads on the wireless terminal initiating a procedure for creating a new network, including a declaration of wireless terminal as access point of new network).

Gandolfo does not specifically teach wherein the wireless terminal is initially part of an existing centralized network that includes an access point able to control the association of wireless terminals to the existing centralized network; and disassociation of the wireless terminal, initiated by the wireless terminal, from the existing centralized network.

Ozugur teaches a wireless terminal (e.g., 34a-1, FIG. 2) that is initially part of an existing centralized network that includes an access point (e.g., 46a, FIG. 2) able to control the association of wireless terminals to the existing centralized network (see col. 6, lines 28-35); and disassociation of the wireless terminal, initiated by the wireless terminal, from the existing centralized network (see col. 6, lines 66-67 and col. 7, lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the method in Gandolfo adapt to include wherein the wireless terminal is initially part of an existing centralized network that includes an access point able to control the association of wireless terminals to the existing centralized network; and disassociation of the

Art Unit: 2617

wireless terminal, initiated by the wireless terminal, from the existing centralized network because this would facilitate creation of the new network by the controller-capable device in Gandolfo when the controller capable device is first connected to an existing network as taught in Ozugur (see Ozugur, col. 6, lines 66-67 and col. 7, lines 1-3).

Regarding claim 4 Gandolfo teaches a wireless terminal (controller-capable device) including an interface with a communication medium (see col. 2, lines 55-56 & 61-65), a microprocessor and a memory (see col. 9, lines 5-6, buffering and processing capability indicates that the devices comprise a processor and a memory), wherein the wireless terminal additionally includes in its memory a code to perform functions (see col. 1, lines 20-23, computer program products reads on code to perform functions and it is well known that such computer program products can be implemented in mobile devices to perform functions). Gandolfo teaches initiating a procedure for creating a new network including a declaration of the wireless terminal as the access point of the new network, where the operating parameters of the new network are such that communications on the new network do not interfere with the existing network, the new network using a frequency different from the frequency used by the existing network (see col. 9, lines 23-33, When the controller-enabled device creates a new network it then becomes a controller device with functionality for controlling the network and having other devices associated to it (see col. 9, lines 13-19 and col. 12, lines 56-60). This reads on initiating a procedure for creating a new network, including a declaration of the wireless terminal as the access point of the new network).

Art Unit: 2617

Gandolfo does not specifically teach disassociation of the wireless terminal, initiated by the wireless terminal, from a network.

Ozugur teaches disassociation of a wireless terminal (e.g., 34a-1, FIG. 2), initiated by the wireless terminal, from a network (see col. 6, lines 66-67 and col. 7, lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the wireless terminal in Gandolfo adapt to include disassociation of the wireless terminal, initiated by the wireless terminal, from a network because this would facilitate creation of the new network by the controller-capable device in Gandolfo when the controller capable device is first connected to an existing network as taught in Ozugur (see Ozugur, col. 6, lines 66-67 and col. 7, lines 1-3).

IV. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gandolfo (US 7,184,767 B2) in view of Ozugur (US 7,289,463 B2) and Norman et al. (US 7,082,535 B1).

Regarding claim 2 Gandolfo and Ozugur teach the method according to claim 1 except for initiating disassociation in at least one of the following cases: frequency change rejection by the access point of the existing network following a request for frequency change from the wireless terminal; or connection establishment rejection by the access point of the existing network following a request for connection establishment from the wireless terminal.

Norman teaches initiating disassociation upon a connection establishment rejection by an access point (102, FIG. 1c) of an existing network following a request for connection establishment from a wireless terminal (106, FIG. 1c) (see col. 4, lines 3-9 & 17-20).

Art Unit: 2617

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the method of the Gandolfo and Ozugur combination adapt to include initiating disassociation in at least one of the following cases: frequency change rejection by the access point of the existing network following a request for frequency change from the wireless terminal; or connection establishment rejection by the access point of the existing network following a request for connection establishment from the wireless terminal because it would efficiently allow for other actions to be taken, such as creation of a new network, in situations where connection with an existing network is denied (see Norman, col. 4, lines 22-23).

Regarding claim 5 Gandolfo, Ozugur, and Norman teach limitations as recited in claim 2 and is rejected given the same reasoning as above.

Response to Arguments

V. Applicant's arguments with respect to claims 1-2 and 4-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON J. MILLER whose telephone number is (571)272-7869. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brandon J Miller/
Examiner, Art Unit 2617

August 18, 2010